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January 5, 2007

Agenda No. 9
10/24/06

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012


**Re: CONDITIONAL USE PERMIT NUMBER 200500090-(1)
FIRST SUPERVISORIAL DISTRICT/THREE-VOTE MATTER**

Dear Supervisors:

Your Board previously conducted a hearing regarding the above-referenced permit which proposes the continued operation of a bar offering live entertainment limited to karaoke in the Puente Zoned District. At the completion of the hearing you indicated an intent to approve the permit with modified conditions and instructed us to prepare findings and conditions for approval. Enclosed are findings and conditions for your consideration.

Very truly yours,

RAYMOND G. FORTNER, JR.
County Counsel

By 
RICHARD D. WEISS
Assistant County Counsel
Property Division

APPROVED AND RELEASED:


RAYMOND G. FORTNER, JR.
County Counsel

RDW/

Enclosures

HOA.409663.1

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
CONDITIONAL USE PERMIT 200500090-(1)**

1. The applicant is requesting a conditional use permit ("CUP") for the continued operation of an existing bar with the sale of beer and wine for on-site consumption with accessory live entertainment, limited to karaoke, in an existing 2,426 square foot building. The establishment contains two pool tables and a karaoke bar. The current hours of operation for the facility are from 3:00 p.m. to 1:30 a.m., Monday through Sunday. Currently there are three employees. The establishment has been in operation for more than 30 years and has been operated by the current applicant for two years.
2. The 0.16-acre subject property is located at 16005 Amar Road, in the community of Valinda, in the Puente Zoned District. The subject property is located on the north side of Amar Road between Greycliff Avenue and Echelon Avenue.
3. Zoning on the site is C-2-BE (Neighborhood Commercial – Billboard Exclusion). Prior to 1974, the operation of a bar in the C-2 zone was a permitted use in the zone. Since 1974 the operation of a bar in the C-2 zone has required a CUP, pursuant to Section 22.28.110 of the Los Angeles County Code ("County Code"). However, since the business legally established prior to 1974, it obtained a legal nonconforming use status. According to Section 22.56.1540 of the County Code, the amortization period for nonconforming business uses is 25 years. The applicant has filed for a CUP to authorize the continued operation of the existing bar with the sale of beer and wine for on-site consumption with accessory live entertainment, limited to karaoke.
4. The surrounding properties are zoned as follows:

North: R-1-6,000 (Single-Family Residential – 6,000 square feet required area)
East: R-1-6,000, C-2-BE, P-R (Parking Restricted)
South: City of Industry zoning designations
West: R-1-6,000, C-2-BE, P-R
5. Surrounding land uses within 500 square feet include:

North: Single-family and duplex residences
East: Single-family and duplex residences, commercial
South: Commercial, public storage facility, light industry
West: Single-family and duplex residences, commercial
6. No previous zoning or enforcement cases have been filed on the property. Records from the Assessor's Office indicate that the 2,426-square-foot building was constructed in 1960. Records from the Department of Alcoholic Beverage

Control show that a license for beer and wine for on-site consumption for this business was originally issued in May 2, 1983.

7. The subject property is designated as "C" (Commercial) in the Countywide General Plan. Areas within this designation are suited for commercial, service, and office uses. Policy Number 4 of the General Plan states that development should "Promote neighborhood commercial facilities which provide convenience goods and services and complement the community character through appropriate scale, design, and locational controls." The operation of a local serving bar can be found consistent with this designation, with appropriate conditions.
8. The site plan depicts the 2,426-square-foot, single-story building and six parking spaces. The property is accessed from the south via Amar Road. Amar Road is designated a secondary highway with a 100 foot right-of-way. A common driveway shared with the adjacent property to the east provides access to a parking area located at the rear of the subject property. Two parking spaces and space for trash and recycling are located at the rear of the property. An existing 69.7-square-foot wall sign is located on the building frontage along Amar Road.
9. Unless specifically modified by a conditional use permit during the discretionary review process, premises in Zone C-2 shall be subject to the following development standards under Part 5 of Chapter 22.28 of the County Code:
 - A. According to Section 22.28.170A, not to exceed 90 percent of the net area shall be occupied by buildings, with a minimum of 10 percent of the net area landscaped with a lawn, shrubbery, flowers, and/or trees, which shall be continuously maintained in good condition. Incidental walkways, if needed, may be developed in the landscaped area.

The 2,426-square-foot building occupies 34.3 percent of the property, which does not exceed the 90 percent allowed lot coverage. Under current standards, 699 square feet of landscaping would be required. Currently no landscaping exists on the property. The building on the property was developed in 1960, prior to existing standards, and no expansion of the building is proposed. Therefore it is considered a legal nonconforming structure and the landscaping requirements that would otherwise apply are not applicable.
 - B. Section 22.28.120 Part B refers to Part 11 of Chapter 22.52 for parking requirements. Per Section 22.52.1110 of the County Code, for entertainment, assembly, and dining uses, one automobile parking space plus adequate access thereto shall be provided for each three persons based on the occupant load as determined by the county engineer.

The Department of Public Works has determined that the occupant load for the existing 2,426 square foot bar is 69 persons. Under current standards, the bar would require 23 parking spaces. Six parking spaces are shown on the site plan. Due to the lawful nonconforming status of the structure, the parking requirements that would otherwise apply are not applicable.

- C. Except for uses specified in Section 22.28.170D of the County Code, all display in Zone C-2 shall be located entirely within an enclosed building unless otherwise authorized by a temporary use permit.

No outside display is shown on the site plan. The site plan complies with this requirement.

- D. Section 22.28.170E states that outside storage is not permitted in the C-2 zone.

No outside storage is shown on the site plan. The site plan complies with this requirement.

- E. According to Section 22.52.880, a maximum of three square feet of wall sign area are allocated to each linear foot of building frontage. Freestanding signs are not permitted for properties with less than 100 feet of frontage.

The building has a frontage of 40 linear feet, and 120 square feet of total sign area is allocated for wall signs. One 69.7-square-foot wall sign exists on the property. The existing wall signage complies with this requirement. An existing pole sign is located on the southwest corner of the property. This sign is not consistent with existing standards.

- 10. Currently, there are three establishments within 500 feet of the subject property that sell alcoholic beverages. An adjacent establishment, Las Potrillas Night Club, is located to the east of the subject property and sells a full line of alcoholic beverages for on-site consumption. Two establishments, one liquor store on the property to the east of the subject property and one liquor store to the south of the subject property sell a full line of alcoholic beverages for off-site consumption. Residential properties border the site to the north, separated by a solid wall. The main entrance to the establishment faces south. Workman High School is within 1,000 feet of the subject property. Valinda Middle School and Del Valle Elementary School are located within walking distance of the subject property.
- 11. This project has been determined by the Board of Supervisors to be categorically exempt for purposes of the California Environmental Quality Act under Class 1, (Existing Facilities) of the Environmental Document Reporting Procedures and Guidelines of the County of Los Angeles. The Class 1 exemption applies to the

operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the determination.

12. On December 28, 2005, notices of the Regional Planning Commission's ("Commission") public hearing on this application were mailed out to 54 property owners within 500 square feet of the subject property, 19 local organizations, and four private persons identified on the Department's courtesy mailing list for projects in the Puente Zoned District. The notice was published in the San Gabriel Valley Tribune and La Opinion on December 28, 2005. Case-related material, including the hearing notice, factual and burden of proof, were sent on December 28, 2005, to the La Puente County Library at 15920 East Central Avenue in La Puente.
13. No comments were received from the public regarding this request while it was pending before the Commission.
14. According to the Department of Alcoholic Beverage Control, the subject property is within a high crime area. In a letter dated February 14, 2006, the Sheriff's Department sent statistics stating that Sheriff's deputies had visited the site 28 times in the last three years. The letter also stated that Sheriff's deputies had visited Las Potrillas, an adjacent bar to the east, 57 times during the same period.
15. Due to the history in and around the subject property with the Sheriff's Department, the Regional Planning Commission imposed additional restrictions for the continued operation of the bar, including a restriction that the bar must close by 12:00 a.m. daily, a requirement that an unarmed security guard be present during the hours of 7:00 p.m. to 12:30 a.m., and requirement for the installation and maintenance of a security camera at the rear of the property.
16. The applicant appealed the Commission's approval to the Board of Supervisors, specifically opposing the conditions that the bar be closed no later than 12:00 a.m. daily and that live entertainment be limited to karaoke.
17. The Board of Supervisors conducted its hearing on the applicant's appeal on October 24, 2006. The applicant represented that during the present ownership there have been no legal incidents directly attributable to the subject premises and that the incidents reported by the Sheriff's Department all related to other facilities. However, representatives from the Sheriff's Department provided testimony indicating that in June and July of this year, criminal investigations at the premises resulted in several arrests and a citation for various Business and Professions Code violations. Additionally, the Sheriff's Department

representatives confirmed that there have been several incidents at the subject premises over the past couple of years requiring Sheriff's Department response, including narcotics' arrests, battery against a law enforcement officer, and robbery.

18. In light of the evidence received at the public hearing, the Board of Supervisors determined that the Commission's restrictions on the hours of operation and the limitation on the nature of the live entertainment are warranted, and that the continued operation of the subject premises should be further conditioned so as to prohibit catering trucks or mobile vending carts from selling goods at the subject property; to require that a manager be on the premises at all times during business hours; and that the Director of Planning review compliance by the applicant with the conditions of approval within one year to determine whether changes in the conditions are warranted or whether a revocation/modification proceeding should be initiated. In no event is the Planning Director authorized to expand the hours of operation at the premises.
19. Properly conditioned, the continued operation of a bar at this location would be appropriate and will not jeopardize the health, safety, and welfare of the public.
20. The location of the documents and other materials constituting the record of proceedings upon which the Commission's decision is based in this matter is the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits I Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:

- A. That the proposed use is consistent with the adopted general plan for the area;
- B. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare;
- C. That the proposed site is adequate in size and shape to accommodate the development features prescribed in Title 22 of the County Code, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- D. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Finds that the continued operation of the subject business at the proposed location is Categorically Exempt under Class 1 of the Environmental Document Reporting Procedures and Guidelines of the County of Los Angeles; and
2. Conditional Use Permit No. 200500090-(1) is approved subject to the attached conditions.

CONDITIONS FOR APPROVAL
CONDITIONAL USE PERMIT NUMBER 200500090-(1)

1. This grant authorizes the continued operation of a bar in the C-2-BE zone with the sale of beer and wine for on-site consumption at the subject property with accessory live entertainment, limited to karaoke only, as depicted on the approved Exhibit "A." This grant is subject to all of the following conditions of approval.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning ("Department") their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition No. 10.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable limitation period of Government Code section 65009 or any other applicable limitation period. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within 10 days of the filing pay the Department an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the Department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - A. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation; and
 - B. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with Los Angeles County Code section 2.170.010.

6. This grant shall expire unless used within 90 days from the date of approval. A one-year time extension may be requested in writing with the payment of the applicable fee, at least 90 days before the expiration date.
7. If any material provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
8. Prior to the use of this grant, the terms and conditions of the grant shall be recorded in the office of the County Recorder. In addition, upon any transfer or lease of the subject property during the term of this grant, the permittee shall promptly provide a copy of the grant and its terms and conditions to the transferee or lessee, as applicable, of the subject property. Upon recordation, an official copy of the recorded conditions shall be provided to the Director.
9. This grant shall terminate on October 24, 2011. Upon written request made by the permittee not less than six months prior to the termination date, the Director of Planning shall extend the term of this permit for five years to October 24, 2016, if the use is found to be in substantial compliance with the conditions of approval and has been conducted in compliance with applicable laws and regulations; and the permittee has exercised utmost diligence to resolve any Notice of Violation throughout the term of the permit. Notwithstanding the above, the Planning Director shall also review compliance by the permittee with the conditions of approval one year following the approval of this grant and advise the Board of Supervisors of any problems or violations in order to determine if changes to the conditions are warranted or a revocation/modification proceeding should be initiated. In no circumstances shall the Planning Director expand the hours of operation of the subject premises.

Upon termination of this grant, entitlement to the use of the property shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, a new conditional use permit application shall be filed with the Department least six months prior to the termination of this permit, whether or not any modification of the use is requested at that time.

10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Prior to the use of this grant, the permittee shall deposit with the County of Los Angeles the sum of \$750 (five annual inspections

at \$150 each). These monies shall be placed in a performance fund that shall be used exclusively to compensate the Department for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval, including adherence to development in accordance with the approved site plans on file. The applicant shall deposit additional funds to provide five annual inspections, if this grant is extended pursuant to Condition No. 9. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible for and shall reimburse the Department for all additional inspections and for any enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be the amount equal to the recovery cost at the time of payment (currently \$150.00 per inspection).

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public health or safety or so as to be a nuisance. In the event that the County deems it necessary to initiate such proceedings pursuant to Part 13 of Chapter 22.56 of the County Code, the applicant shall compensate the County for all costs incurred in such proceedings.
12. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.
13. Upon approval of this grant, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Fire Department to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided to the satisfaction of and within the time periods established by said department.
14. All structures shall comply with the requirements of the Division of Building and Safety of the Los Angeles County Department of Public Works.
15. All structures shall comply with the requirements of the Los Angeles County Department of Health Services.

16. Within 60 days of the approval date of this grant, the permittee shall submit to the Planning Director for review and approval three copies of an Exhibit "A," similar to that presented at the public hearing, that depicts all required or proposed project changes, including the locations of storage and display for beer and wine. The property shall be developed and maintained in substantial conformance with the approved Exhibit "A." In the event that subsequent revised plans are submitted, the permittee shall submit three copies of the proposed plans to the Planning Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner.
17. The operation of this facility is further subject to all of the following conditions:
 - A. Hours of operation for the facility, including the sale of beer and wine, shall be limited from 4:00 p.m. to 12:00 a.m. daily;
 - B. Patrons shall disperse from the facility half an hour after the cessation of alcohol sales;
 - C. There shall be no loitering permitted on the premises under the control of the permittee. Signage shall be posted in English and the predominant language in the area on the premises prohibiting loitering;
 - D. The sale of alcoholic beverages for consumption outside the premises is prohibited;
 - E. The permittee shall instruct all employees in the regulations regarding no loitering and no consumption of alcoholic beverages outside the subject facility. Employees shall be instructed to enforce these regulations and to call local law enforcement if necessary;
 - F. All employees of the facility shall participate in the Licensee Education on Alcohol and Drugs ("LEAD") Program offered by the California Department of Alcoholic Beverage Control ("ABC"). This training shall be on-going and all new employees shall be required to attend. The permittee shall display a certificate or plaque in the lobby of the establishment indicating its participation in this program;
 - G. All servers of alcoholic beverages must be 21 years of age;
 - H. An unarmed security guard shall be present at the facility between the hours of 7:00 p.m. to 12:30 a.m., when the facility is in operation;
 - I. The permittee shall not advertise or hold any "happy hour" drink specials, "two for one" specials, or similar promotions;

- J. Temporary signs or banners advertising alcoholic beverage "specials" or any similar promotions shall not be displayed on the exterior walls or fascia of the building;
- K. The permittee shall not advertise the sale of alcoholic beverages on the exterior walls or windows of the subject building or at any location on the subject property. No self-illuminating advertising for alcoholic beverages shall be located on the exterior of buildings or windows;
- L. In the event of extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such graffiti shall be of a color that matches, as closely as possible, the color of the adjacent surfaces. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization;
- M. The permittee shall provide adequate lighting above all entrances and exits to the premises. The lighting shall be of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons entering or exiting the premises during operating hours and shall be designed so as to direct light and glare only onto the facility premises. Said lighting and glare shall be deflected, shaded, and focused away from all adjoining properties. Outdoor lighting shall not exceed an intensity of one foot-candle of light throughout the facility. Only minimal motion-sensor security lighting shall be used later than nightly closing hours;
- N. A security camera shall be installed to monitor the rear parking lot. Security camera tapes shall be kept for a minimum of 30 days and made available to law enforcement, ABC, or Department staff upon their request;
- O. The subject facility shall have no more than a total of four coin or otherwise fee-operated games of amusement or skill, such as pool tables and jukeboxes, at any time;
- P. The doors on the north side of the building shall be closed while karaoke is in progress;
- Q. Karaoke is permitted during the operating hours of the facility. All other forms of live entertainment, such as live bands and operation of a disco or dance hall, are prohibited.

- R. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain free of litter all areas on the premises over which the permittee has control;
- S. Off-site signs are prohibited, unless approved by the Department. The placement of portable signs on sidewalks adjacent to the subject property and temporary signs on walls and poles is prohibited;
- T. Temporary window signs shall not exceed 25 percent of the area of any single window or of adjoining windows on the same frontage;
- U. The permittee shall keep telephone numbers of local law enforcement agencies posted in the facility in plain view near the cashier's or similar public service area;
- V. The permittee shall maintain a current contact name, address, and phone number on file with the Department at all times;
- W. The conditions of this grant shall be retained on the premises at all times and be immediately produced upon request of any County Sheriff, Zoning Inspector, or ABC agent. The manager and all employees of the facility shall be knowledgeable of the conditions herein;
- X. Catering trucks and mobile vending carts shall be prohibited from selling any goods at the subject property; and
- Y. A manager shall be on the premises at all times during business hours.